

**MINUTES OF A MEETING OF THE BOARD OF APPEALS
February 14, 2013**

Chairperson Harvey Kaye called the meeting to order at 7:32 p.m. Board Members present: Vice Chair Victor Macdonald and Board Members Carol Rieg, Robert Chiswell, and Aaron Kotok. Staff present: Caroline Seiden, Planner, and Kirk Eby, GIS Planner.

I. APPROVAL OF MINUTES

Approval of the October 11, 2012 Minutes

Motion was made by Board Member Rieg, seconded by Board Member Macdonald, that the minutes of the October 11, 2012 Board of Appeals Meeting be approved.

Vote: 5-0; Approved

Approval of the January 10, 2013 Minutes

Motion was made by Board Member Rieg, seconded by Board Member Chiswell, that the minutes of the November 15, 2012 Board of Appeals Work Session be approved.

Vote: 4-0; Approved (Macdonald Abstained)

II. SPECIAL EXCEPTION REVIEW – BIENNIAL REVIEW

A-351 (XIV) - Ines Reed

The petition requests a review of a Special Exception granted on May 5, 1988 to allow a rooming house (for 5 rooms) in the R-90 (Medium Density Residential) zone as permitted by Section 24-29(3) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code) at 109 South Summit Avenue, Gaithersburg, Maryland.

Planner Seiden introduced the Special Exception Review and directed the Board to an email from Neighborhood Services Director Kevin Roman, which indicated that there were no outstanding issues or violations and that the property had recently passed its biennial inspection. Ms. Reed testified on her own behalf.

Motion was made by Vice Chair Macdonald, seconded by Board Member Rieg, that Special Exception A-351 be granted with ten (10) conditions and the resolution be approved.

1. Not more than five (5) roomers shall be permitted to occupy the structure at any one time;
2. This special exception is granted for two (2) years; the applicant shall be required to renew this application within a two (2) year period and every two years thereafter, or sooner upon the request of the department of Planning and Code Administration. (Next review should be February 2015).
3. The entire premises of 109 South Summit Avenue are to be licensed every two (2) years in accordance with Chapter 18AA (Rental Housing) of City Code and inspected by City staff for compliance of Chapter 11 (Fire Safety), Chapter 17AA (Property Maintenance) of the City Code;
4. Each tenant shall be required to sign a lease form prior to tenancy (the contents of this

lease must be approved by the City Rental Housing staff prior to occupancy of 109 South Summit Avenue as a rooming house). The owners of the premises must submit within thirty (30) days of the execution of the lease a copy of each tenant's lease and copies of any future leases to City Rental Housing staff;

5. Each bedroom must be labeled with the tenant's name;
6. Use of the basement for sleeping purposes is prohibited because it does not comply with the building or life safety code egress requirements;
7. The kitchen in the basement shall not be used by the roomers (tenants) and the existing kitchen shall be inspected to insure compliance by City and WSSC Codes;
8. The parking lot shall be paved with ten (10) spaces designated individually for the roomers, the owners of the house, and the home occupation patrons;
9. This special exception is granted to Ines Reed only; with any sale or exchange of the property at 109 South Summit Avenue to others this special exception shall become null and void; and
10. Occupancy certificates shall be subject to all conditions set forth in this opinion.

Vote: 5-0; Approved

III. PUBLIC HEARING – SPECIAL EXCEPTION

BOA-1761-2013 - Hellen Ronke Fatimehin for La Paix Beauty Academy

The application requests a **Special Exception** to permit a **private educational institution** in the existing building at 26 N. Summit Avenue, Parcel P-904, Gaithersburg, Maryland. The property is located in the CBD (Central Business District) Zone. The use is allowed by Section 24-160F.2.(b) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code) subject to the review of the Board of Appeals.

Planner Seiden introduced the Special Exception and noted that the Planning Commission had recommended approval at its February 6, 2013 meeting. Ms. Ronke Fatimehin testified on behalf of La Paix Beauty Academy, noting that the corporate name for the school is Lakeforest Beauty Academy, Inc. She confirmed that a maximum of 20 students would be in attendance at one time, not initially, but at some point in the future. Board Member Chiswell advised the applicant to caution students not to park in the adjacent bank parking lot. In response to concerns regarding ownership of the parking in the rear of the building, Planner Seiden reminded the Board that the applicant was not the property owner and that the Board's focus should be on whether the use was appropriate for the site. She noted that the City does not have a copy of a site plan associated with the site, and therefore, there is no parking chart to review or amend. Ms. Fatimehin further testified that a large majority of the students do not own automobiles and would arrive at the school via bus.

Motion was made by Board Member Chiswell, seconded by Vice Chair Macdonald, that Special Exception BOA-1761-2013 be granted with two (2) conditions and the resolution be approved.

1. This special exception is granted for the Lakeforest Beauty Academy, Inc. (dba La Paix Beauty Academy) only and shall terminate at the time of the expiration of its lease and/or any subsequent lease renewals;
2. Operations are limited to the hours and maximum number of students specified in the applicant's statement (Exhibit #2).

IV. DISCUSSION

Amendments to Zoning Ordinance Update

Staff informed the Board of a meeting that was held between Board of Appeals staff, the Director of Planning and Code Administration and the City Attorney regarding the best way to include State definitions in the City Code. The revised draft Amendments to the Zoning Ordinance includes State definitions for Special Exceptions and Variances, with a footnote stating that “if a conflict between this statute and State code exists, the State prevails.” Planner Seiden stated that staff would now begin the process of getting sponsorship from the Mayor and City Council to begin the approval process.

V. ADJOURNMENT

There being no more business before this work session of the Board of Appeals, the meeting was adjourned at 8:07 p.m.